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PATENT

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Application No.: **10/585,996**

PCT Appl. No.: **PCT/CH2005/000016**

Applicant: Werner BOLTHAUSER

Filing Date: July 13, 2006

Group Art Unit: Unknown

Title: METHOD AND DEVICE FOR PRODUCING A CAN BODY AND  
CAN BODY

Docket No.: **37960-000112/US**

**REQUEST FOR RECORDATION OF  
INTERNATIONAL PRELIMINARY EXAMINATION REPORT**

**MAIL STOP PCT**

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

November 24, 2006

Sir:

Applicant attaches hereto an International Preliminary Examination Report which has been issued in connection with the above-identified application. Please make this document part of the prosecution history of the present application.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, P.L.C.

By: Donald J. Daley  
Donald J. Daley, Reg. No. 34,313

P.O. Box 8910  
Reston, Virginia 20195  
(703) 668-8000

DJD:amp

Attachment: International Preliminary Examination Report

## PATENT COOPERATION TREATY

PCT/CH2005/000016

From the INTERNATIONAL BUREAU

27. Oct. 2006

**PCT**

NOTIFICATION OF TRANSMITTAL  
OF COPIES OF TRANSLATION  
OF THE INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY  
(CHAPTER I OR CHAPTER II  
OF THE PATENT COOPERATION TREATY)  
(PCT Rules 44bis.3(c) and 72.2)

To:

STOCKER, Kurt  
Büchel, v.Révy & Partner  
Zedernpark/Bronschorferstr. 31  
Postfach 907  
CH-9500 Wil  
SUISSE

Date of mailing (*day/month/year*)  
26 October 2006 (26.10.2006)

Applicant's or agent's file reference  
WP1943P

**IMPORTANT NOTIFICATION**

International application No.  
PCT/CH2005/000016

International filing date (*day/month/year*)  
14 January 2005 (14.01.2005)

Applicant

CREBOCAN AG et al

**1. Transmittal of the translation to the applicant.**

The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).

The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

**2. Transmittal of the copy of the translation to the designated or elected Offices.**

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

None

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SM, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

**3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).**

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

**It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.**

The International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20, Switzerland

Facsimile No. +41 22 338 82 70

Authorized officer

Yolaine Cussac

Facsimile No. +41 22 338 82 70

**PATENT COOPERATION TREATY**

**PCT**

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**  
(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference WP1943P	<b>FOR FURTHER ACTION</b>		See item 4 below
International application No. PCT/CH2005/000016	International filing date ( <i>day/month/year</i> ) 14 January 2005 (14.01.2005)	Priority date ( <i>day/month/year</i> ) 15 January 2004 (15.01.2004)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant CREBOCAN AG			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 13 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

<input checked="" type="checkbox"/> Box No. I	Basis of the report
<input type="checkbox"/> Box No. II	Priority
<input checked="" type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input checked="" type="checkbox"/> Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/> Box No. VI	Certain documents cited
<input type="checkbox"/> Box No. VII	Certain defects in the international application
<input type="checkbox"/> Box No. VIII	Certain observations on the international application

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

Date of issuance of this report 18 October 2006 (18.10.2006)	
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland  Facsimile No. +41 22 338 82 70	Authorized officer  Yolaine Cussac e-mail: pt11@wipo.int

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:

**PCT**

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

	Date of mailing (day/month/year)	<b>See Form PCT/ISA/210 (sheet 2)</b>
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Applicant's or agent's file reference <b>WP1943P</b>		<b>FOR FURTHER ACTION</b> See paragraph 2 below	
International application No. <b>PCT/CH2005/000016</b>	International filing date (day/month/year) <b>14.01.2005</b>	Priority date (day/month/year) <b>15.01.2004</b>	
International Patent Classification (IPC) or both national classification and IPC <b>B23K26/28 B23K33/00 B21 D51/26</b>			
Applicant <b>CREBOCAN AG</b>			

<p>1. This opinion contains indications relating to the following items:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Box No. I Basis of the opinion</li> <li><input type="checkbox"/> Box No. II Priority</li> <li><input checked="" type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</li> <li><input checked="" type="checkbox"/> Box No. IV Lack of unity of invention</li> <li><input checked="" type="checkbox"/> Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</li> <li><input type="checkbox"/> Box No. VI Certain documents cited</li> <li><input type="checkbox"/> Box No. VII Certain defects in the international application</li> <li><input type="checkbox"/> Box No. VIII Certain observations on the international application</li> </ul>	
<p>2. <b>FURTHER ACTION</b></p> <p>If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.</p> <p>If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.</p> <p>For further options, see Form PCT/ISA/220.</p>	
<p>3. For further details, see notes to Form PCT/ISA/220.</p>	

Name and mailing address of the ISA/EP	Authorized officer
Facsimile No.	Telephone No.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/CH2005/000016

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.  
 This opinion has been established on the basis of a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material  
 a sequence listing  
 table(s) related to the sequence listing
  - b. format of material  
 in written format  
 in computer readable form
  - c. time of filing/furnishing  
 contained in the international application as filed.  
 filed together with the international application in computer readable form.  
 furnished subsequently to this Authority for the purposes of search.
3.  In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/CH2005/000016

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

the entire international application

claims Nos. 21

because:

the said international application, or the said claims Nos. \_\_\_\_\_ relate to the following subject matter which does not require an international preliminary examination (*specify*):

the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 21 are so unclear that no meaningful opinion could be formed (*specify*):

the claims, or said claims Nos. 21 are so inadequately supported by the description that no meaningful opinion could be formed.

no international search report has been established for said claims Nos. 21

the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

has not been furnished  
 does not comply with the standard

the computer readable form

has not been furnished  
 does not comply with the standard

the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

See Supplemental Box for further details.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/CH2005/000016

Box No. IV      Lack of unity of invention.

1.  In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has:  
 paid additional fees  
 paid additional fees under protest  
 not paid additional fees
2.  This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is:  
 complied with  
 not complied with for the following reasons:
4. Consequently, this opinion has been established in respect of the following parts of the international application:  
 all parts  
 the parts relating to claims Nos. \_\_\_\_\_

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
**PCT/CH2005/000016**

Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement																												
<p><b>1. Statement</b></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">Novelty (N)</td> <td style="width: 60%;">Claims</td> <td style="width: 20%; text-align: right;">YES</td> </tr> <tr> <td></td> <td>1-20, 22</td> <td></td> </tr> <tr> <td></td> <td>Claims</td> <td>NO</td> </tr> <tr> <td>Inventive step (IS)</td> <td>Claims</td> <td style="text-align: right;">YES</td> </tr> <tr> <td></td> <td>13, 14, 22</td> <td></td> </tr> <tr> <td></td> <td>Claims</td> <td>NO</td> </tr> <tr> <td>Industrial applicability (IA)</td> <td>Claims</td> <td style="text-align: right;">YES</td> </tr> <tr> <td></td> <td>1-20, 22</td> <td></td> </tr> <tr> <td></td> <td>Claims</td> <td>NO</td> </tr> </table> <p><b>2. Citations and explanations:</b></p> <p>1) This report makes reference to the following documents:</p> <p style="margin-left: 40px;">D1: EP-A-0 208 564      D2: WO-A-02 42196      D3: WO-A-02 092466      D4: US-A-5 186 592      D5: US-A-2 444 465      D6: DE-A-24 56 097</p> <p>2) <u>Invention no. 1</u></p> <p>2.1) The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claims 1 and 15 does not involve an inventive step within the meaning of PCT Article 33(3).</p> <p style="margin-left: 40px;">D1, which is considered to represent the prior art closest to the subject matter of claim 1, discloses a process having all the feature of the preamble.</p>			Novelty (N)	Claims	YES		1-20, 22			Claims	NO	Inventive step (IS)	Claims	YES		13, 14, 22			Claims	NO	Industrial applicability (IA)	Claims	YES		1-20, 22			Claims	NO
Novelty (N)	Claims	YES																											
	1-20, 22																												
	Claims	NO																											
Inventive step (IS)	Claims	YES																											
	13, 14, 22																												
	Claims	NO																											
Industrial applicability (IA)	Claims	YES																											
	1-20, 22																												
	Claims	NO																											

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.  
PCT/CH2005/000016

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

The subject matter of claim 1 therefore differs from the known process by the steps of the characterizing part.

The process according to the invention essentially differs from that of D1 in that the seam contact surfaces are not cylindrical. The problem addressed by the present invention may therefore be seen to consist in enabling simple positioning of the sealing element.

The solution to this problem proposed in claim 1 of the present application cannot be considered to involve an inventive step (PCT Article 33(3)). The reasons are:

Each of D2-D4 describes the same advantages in respect of the feature of a conical seam contact surface as does the present application. A person skilled in the art would therefore consider the inclusion of this feature in the process described in D1 to be a routine measure for solving the problem of interest.

The same reasons apply *mutatis mutandis* to independent claim 15.

2.2) Dependent claims 2-12 and 16-20 do not contain any features which, in combination with the features of any claim to which they refer back, meet the PCT requirements for inventive step.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.  
PCT/CH2005/000016

Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability: citations and explanations supporting such statement
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3) Invention no. 2

3.1) D5, which is considered to represent the prior art closest to the subject matter of claim 13, discloses (the references in parentheses are to this document):

a process for producing a can body (J) in which, in order to provide can shells (H), strip-shaped flat material (B) is continuously converted into a closed form transversely to the strip axis and after a longitudinal seam has been welded (column 6, line 70 to column 7, line 4) can shell sections (J) are detached from the can shell strip, wherein, for the purpose of separation, a supporting edge (137) is provided in the interior of the continuously formed can shell strip, said edge running in a normal plane relative to the longitudinal axis of the can shell strip, lying immediately adjacent to the inner face of the can shell strip and cooperating with at least one cutting tool (135), so that a section of the can shell strip is detached (column 7, lines 25-31), wherein during the cutting process the supporting edge and the at least one cutting tool are advanced with the can shell strip and after the cutting process the at least one cutting tool is brought into a contact-free position relative to the supporting edge and returned with the supporting edge counter to the movement of the can shell strip to its original position prior to the cutting process (column 7, lines 19-50).

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/CH2005/000016

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

Therefore, the subject matter of claim 13 differs from the known process in that the supporting edge is closed in a substantially circular manner and that, when cutting, the cutting tool is twisted into the cutting position along the supporting edge so that a cutting area rotates once about the longitudinal axis.

These features have the result that the can is severed about its entire circumference, not just the remaining cutting sections. Thus, partial severing before reshaping, which is unsuitable for thin-walled cans since the remaining material would be unable to withstand the reshaping process, is avoided.

The problem addressed by the present invention may therefore be seen to consist in proposing a separating process suitable for thin-walled cans.

The solution proposed in claim 13 of the present application can be considered to involve an inventive step (PCT Article 33(3)). The reasons are:

D6 describes the detachment of thin-walled can shell sections by means of a cutting tool and a circular supporting edge which cooperates with the cutting tool (see figures 9 and 10 and page 19, paragraph 2). However, in D6 the cutting tool does not rotate about the longitudinal axis of the can

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/CH2005/000016

<b>Box No. V</b>	Reasoned statement under Rule 43bis, l(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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shell. Instead, the can itself rotates. Therefore, a person skilled in the art would not learn from D6 how to sever a continuously guided can shell.

3.2) The subject matter of claim 22 meets the requirements of PCT Article 33 for the same reasons.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.  
PCT/CH2005/000016

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

**Box III**

The present claim 21 relates to a device characterized by a desirable property, namely, that the device enables a process to be implemented. The subject matter therefore comprises all devices that can implement at least one step of the process, whereas the application provides support in the description within the meaning of PCT Article 5 for only a limited number of such devices.

Regardless of this objection, the claims also lack the clarity required in PCT Article 6, since they attempt to define the device in terms of the result to be achieved. Further, the subject matter of the claim remains so indeterminate that it is not clear what process step or steps should be carried out and, therefore, what features would in fact be contained by the device.

Owing to these deficiencies, no search was carried out in respect to the subject matter of claim 21.

**Box IV**

The different inventions are:

Claims 1-20 (with claim 13 as a dependent claim): process for producing a can body, the sealing seam being welded.

Claim 13 as an independent claim, claims 14 and 22: process and device for producing a can body with the

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/CH2005/000016

Supplemental Box

production of the can shell.

These inventions are not so linked as to form a single general inventive concept (PCT Rule 13.1). The reasons are:

Owing to the wording "more particularly according to one of claims 1-12", claim 13 comprises two alternatives whereby it should be considered as either a dependent claim or a purely independent claim. In the latter case (independent claim), claims 1 and 13 are not linked by a common inventive concept and do not meet the requirement for unity of invention. The reasons are:

The common features of claims 1 and 13 are as follows: "process for producing a can body in which a can shell which is closed by a weld joint is produced from a flat material". According to page 3 of the present application, these features are known from EP-A-208 564. The overlap between the subject matter of claim 1 and claim 12 is therefore not novel and is consequently not considered to be a common inventive concept.

Moreover, the contribution of claim 1 over the prior art pertains to the welding of a sealing element. However, a sealing element is not mentioned in claim 13. The process according to claim 13 relates to cutting the can shell. Therefore, claims 1 and 13 do not contain a common special technical feature.

Claims 1 and 22 lack unity of invention for the same reasons.